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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District: <u>Western District Oklahoma</u>
Name (under which you were convicted): <u>Christopher Tahchawwickah</u>		Docket or Case No.: <u>CF-2021-1472(TB)</u>
Place of Confinement: <u>J.C.C.C. Helena, Oklahoma</u>	Prisoner No.: <u>471251</u>	
Petitioner (include the name under which you were convicted) <u>Christopher Tahchawwickah</u>		Respondent (authorized person having custody of petitioner) <u>Scott Crow, director of O.D.C.</u>
The Attorney General of the State of: <u>John O'Connell</u>		

Case Number: CIV-22-585-SLP

PETITION

FILED

JUL 13 2022

- (a) Name and location of court that entered the judgment of conviction you are challenging: Cleveland County Court
Norman, Okla.

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT. WESTERN DIST. OKLA.
BY _____, DEPUTY

(b) Criminal docket or case number (if you know): CF-2021-1472(TB)
- (a) Date of the judgment of conviction (if you know): Nov. 6, 2021

(b) Date of sentencing: Nov. 31, 2021
- Length of sentence: 4 yrs.
- In this case, were you convicted on more than one count or of more than one crime? ☐ Yes ☒ No
- Identify all crimes of which you were convicted and sentenced in this case: Assault and Battery
- (a) What was your plea? (Check one)

☐ (1) Not guilty ☐ (3) Nolo contendere (no contest)

☒ (2) Guilty ☐ (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? N/A

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☒ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☐ Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation to the case (if you know): _____

(f) Grounds raised: _____

(g) Did you seek further review by a higher state court? ☐ Yes ☒ No

If yes, answer the following:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Result: _____

(4) Date of result (if you know): _____

(5) Citation to the case (if you know): _____

(6) Grounds raised: _____

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☒ No11. If your answer to Question 10 was "Yes," give the following information: *N/A*

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

_____(6) Did you receive a hearing where evidence was given on your petition, application, or motion? *N/A*☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? *N/A*

☐ Yes ☒ No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information: *NA*

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? N/A

☐ Yes ☒ No

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☐ Yes ☒ No

(2) Second petition: ☐ Yes ☒ No

(3) Third petition: ☐ Yes ☒ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

Oklahoma Lacked Jurisdiction, or OKLAHOMA STATE HAS AN
ABSENCE OF AVAILABLE CORRECTIVE PROCESS Rule 60(b)(4)

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Oklahoma Lacked Jurisdiction Rule 60(b)(4)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I have some Indian Blood according to the 10th Circuit Court's Two-Part Test
My alleged crime was one or more of the 18 U.S.C. § 1153 Major Crimes Act
My alleged crime was within 18 U.S.C. § 1151's Indian Country.
And My alleged crime was under Treaty Law of (1866).

(b) If you did not exhaust your state remedies on Ground One, explain why:

The Webster's Dictionary
defines the word "Lacked" as "Absent, or Absence of," and the word
"Jurisdiction" as the "Availability to Correct, or Available Corrective Process,"
Therefore as the 10th Cir. said in United States V. Sands, - (1992), that Oklahoma
does "NOT" have Jurisdiction over crimes committed by or against the person
or property of anyone of some Indian Blood, The 28 U.S.C. § 2254(b)(1)(B)(i)(ii)
says (The Petitioner shall not be required to exhaust State Remedies).

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(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? *N/A*☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____
_____(3) Did you receive a hearing on your motion or petition? ☐ Yes ☒ No(4) Did you appeal from the denial of your motion or petition? ☐ Yes ☒ No(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal? ☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____
_____(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: *Rule 60(b)(4)**The United States Supreme Court held in Gonzalez V. Thaler, (2012), (That Parties "cannot" consent to court in "ANY" court, Lacking Jurisdiction), therefore the Petitioner "cannot" consent to court in "ANY" court Lacking Jurisdiction, and Oklahoma Lacked Jurisdiction*

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: N/A

GROUND TWO:

As the State Court did not use 18 USC §§ 1152, 1153 to establish Jurisdiction for the Indian defendant or Victim, they

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.): VOID conviction would have committed {Racial-Prejudicing}, thereby fulfilling the requirement for The Strickland V. Washington, - (1984), for The United States Supreme Court's {Ineffective Assistance of Counsel}, as well as the defense Attorney did not raise the issue as well, committing Ineffective Assistance of Counsel, violating Petitioner's 4th, 5th, 6th, 14th, Amendments Rights, To an Fair Trial. And as the Ineffective Assistance of Counsel claim, cannot necessarily be raised in state court, but can be raised on collateral appeal, Petitioner so raises such claim!

(b) If you did not exhaust your state remedies on Ground Two, explain why: Because Oklahoma Lacked Jurisdiction, the State does have an (Absence of Available Corrective Process) according to the (N.D. Okla. 2021), and the (10th Cir 2020), and the (United States Supreme Court in 2020), fulfilling 28 USC § 2254(b)(1)(B)

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☐ Yes ☒ No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available):

N/A

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

Oklahoma Lacked Jurisdiction, or Oklahoma State has an
Absence Of Available Corrective Process, according to the 10th
Circuit of Appeals in the Murphy V. Royale, - Aug 10th 2020.
Therefore The Conviction is "VOID" ab initio under 28 U.S.C.A. § 60(b)(4).

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you

have used to exhaust your state remedies on Ground Two: N/A

GROUND THREE:

States Violation of United States Constitutional, Amendment VI,
Right to Speedy Trial, by denial of "Federal Speedy Trial Act, 18 U.S.C.A. § 3161-74."

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The government through the Courts, both of the State and the Federal,
Courts, have the inherent power to control their own calendars, and can
dismiss an action for lack of government prosecution; see Rule 48(b) and (50)
Therefore the State has committed a Violation of Amendment VI, or they
have committed a Violation of the Vth and XIVth Amendments, which
guarantee any Fair Trial by the "Actual Prejudice" caused by the delay,
of the Habeas Corpus or Post Conviction, by not adhering to the 28 U.S.C. § 2243, 's
Functional Equivalent."

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

Because the Rule 60(b)(4) is instituted because of the U.S. S.Ct. ruling in McGirt v. Oklahoma, 140 U.S. S.Ct. (2020) and United States v. Sands, U.S. (10th Cir. 1992), Petition is "Void".

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. N/A

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Unknown

(b) At arraignment and plea: Unknown

(c) At trial: Unknown

(d) At sentencing: Unknown

(e) On appeal: N/A

(f) In any post-conviction proceeding: N/A

(g) On appeal from any ruling against you in a post-conviction proceeding: N/A

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☒ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

Because the 28 U.S.C. § 2244 says that the 1-year period of limitation shall apply, the limitation period shall begin on the date of which the expiration in (d)(1)(A) is, (d)(2) The time during which {collateral} review with respect to the pertinent claim is pending, which because of the 10th Cir. Ct. of Appeals, said that Subject Matter Jurisdiction, such as {18 U.S.C. §§ 1152, 1153}, cannot be waived, and {MUST} be

Raised at anytime, would be conclusive to say that, because of The Petitioner's alleged crime was one of 18 U.S.C. § 1152, or 1153, crimes, and Petitioner or their alleged victim, was an Indian according to the 10th Cir.'s Two-Part-Test, and because the alleged crime was within 18 U.S.C. § 1151, Indian Country, that the Time for 1-year period of Limitation has been Surmounted, and this petition for habeas relief is well within Timeliness. Should this Federal Habeas Court arbitrarily deny this required Habeas petition entitled to the Petitioner, by the Congressional Law of 18 U.S.C. § 1153, and required as 28 U.S.C. § 2243, as known as an instant writ of habeas corpus petition, then this Federal habeas court would be construed to have conspired with the corrupt judicial system of Oklahoma, as held by the United States Supreme Court in the Sharp V. Murphy, -U.S.-Sct.-(2020), to commit Racial Prejudicing, against the Indian Petitioner or the Indian Victim, because as the United States Supreme Court has held that the 18 U.S.C. §§ 1152, and 1153, were written to give the Race of Indians an Fair Trial according to the 4th, 5th, 6th, 14th, and 15th Amendments of the United States Constitution, as well as the Various Treaties between the United States and the Indian Nations, or their Members, as in the Article 6, clause 2, of the United States Constitution. And as the State of Oklahoma has committed the Unlawful Act of; see Attackmei

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
 - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
 - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
 - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
 - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

Title 18 U.S.C. § 1201, (Kidnapping), and Title 28 U.S.C.A. § 1343(a)(1) conspiracy
of Title 42 U.S.C. § 1985, to commit Kidnapping, the Respondent is not entitled to respond.

The United States Supreme Court "{Primarily - Relies}" on the doctrine
that "Any [Unlawful] act... is "{Void}" and confers no right upon the
Wrongdoer; see *Waskey v. Hammer*, 223 U.S. 89, 94, 32 S.Ct. 187, 56 L.Ed.
359 (1912); see also *Miller v. Ammon*, 145 U.S. 421, 426, 12 S.Ct. 884, 36 L.Ed.
759 (1892); see also *Burk v. Taylor*, 152 U.S. 634, 145 Ct. 646, 38 L.Ed.
578 (1894); see also *Connolly v. Union Sewer Pipe Co.*, 184 U.S. 540, 548,
22 S.Ct. 431, 46 L.Ed. 679 (1902); see also *Ewert v. Bluejacket*, 259
U.S. 129, 138, 42 S.Ct. 442, 66 L.Ed. 858 (1922); see also *K-Mart
Corp v. Cartier, Inc.*, 486 U.S. 281, 291 (1958); see also F.R.C.P. Rule 52(b):

As the State Courts of Oklahoma have "{Violated}" the "{Contrary-To}"
clause, they are "{not eligible}" for deference from the "{A.E.D.P.A.}".

Therefore the Plaintiff has, according to the 10th Cir., surmounted the
A.E.D.P.A. deference and "{shall not be required}" to exhaust any state
remedies, and the 1-year period has also been surmounted. And as in the

LC v. RT, ¶ (g), The Parties cannot Consent to court in "{Any}" court lacking

Jurisdiction, without Prejudicing The Defendant!

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for any cases having occurred before the ruling. Therefore making it impossible to ["]Enforce["] in the courts of the state of Oklahoma the ["]Right["] to trial in any court previously Ascertained by the Law of 18 U.S.C. § 1153, (2nd) For any act under color of authority derived from any law providing for equal rights, ["]or["] for refusing to do ["]Any-Act["] on the ground that it would be inconsistent with such Law. As the state of Oklahoma has by an preponderance of the evidence, shown that they have, and are now, refusing to do the ["]Act["] of 18 U.S.C. § 1153, of which is based on the Sixth Amendment of the United States Constitution; (In any court previously ascertained by Law), and as the 18 U.S.C. § 1153 Law, was previously ascertained by the Law of Congress, specifically for the ["]Indian-Race["], to be able to receive an ["]Fair-Trial["] of the Sixth Amendment of the United States Constitution, and then by the ["]denial["] of the 18 U.S.C. § 1153, would be ["]Racial-Prejudicing["] of the 15th Amendment.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

Writ of Habeas Corpus

or any other relief to which petitioner may be entitled.

Pro se

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on _____ (month, date, year).

Executed (signed) on _____ (date).



Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.
